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EXAMINER	
WINTER, JOHN M	
ART UNIT	PAPER NUMBER
3685	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/770,353	KRISHNAN ET AL.	
	Examiner	Art Unit	
	JOHN M. WINTER	3685	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 September 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *29-57* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *29-57* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Acknowledgements

The Applicants amendment filed on September 11, 2007 is hereby acknowledged, Claims 29-57 remain pending. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 29-57 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

These claims are embodied as a "system for aquiring digital content" however there is no clear structure defined. Specifically, the claim is silent a computer-readable medium comprising instructions, when executed causes a computer to perform specific method steps. (MPEP 2106.01)

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 29-57 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. Claim 1 is indefinite because it is

a hybrid claim. In particular, the claim appears to be directed towards neither a “process" nor a “machine” but rather embraces or overlaps two different statutory classes of invention. Evidence to support an interpretation that claim 29 is a product is that the preamble which states "a system for acquiring digital content” , and the body recites “a digital accessing component “. Alternatively evidence that indicates the claim is directed to a process or method is in the body of the claim which recites “ to receive and authenticate one or more components” etc.. , because of this conflicting evidence it is unclear whether this is a product or a process claim.

Claims 42 and 51 have similar limitations and are rejected for at least the same reasons.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 29-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katz (US Patent No 5,926,624) in view of Coley et al. (US Patent 5,790,664).

   As per claim 29,

   Katz et al. ('624) discloses a system for acquiring digital content, the system comprising:

   a digital-content-accessing component invoked by a selection interface, provided by a digital-content supplier, to receive and authenticate one or more components of the digital content on a client computer,(Figure 2)

   to store the one or more received and authenticated components in an unusable form on

the client computer; (Figure 5)

a license component incorporated within a component of the digital content that communicates with a remote licensing broker to verify that a user is licensed to receive the digital content (Column 8, lines 1-14)

Katz et al. ('624) does not explicitly disclose generates a useable form of the digital content from the one or more components of the digital content; Coley et al. ('664) discloses generates a useable form of the digital content from the one or more components of the digital content (Column 4, lines 41-48). It would be obvious to one having ordinary skill in the art at the time the invention was made to combine the Katz et al. ('624) method with the Coley et al. ('664) method in order to enable the transaction to yield a useful product.

The Examiner notes that the features of "to receive and authenticate one or more components of the digital content on a client computer" and generates a useable form of the digital content from the one or more components of the digital content" are directed towards intended usage of the system.

Claim 42 and 51 are in parallel with claim 29 and are rejected for at least the same reasons.

2. As per claim 30,

Katz et al. ('624) discloses the system of claim 1 wherein the selection interface is instantiated on the client computer, (Figure 2)

wherein the selection interface provides a description of the digital content; (Column 9, lines 31-37)wherein the selection interface provides for selection, by the user, of the digital

content for acquisition from a remote digital-content vendor. (Column 9, lines 31-37; figure 1)

Claim 43 is in parallel with claim 30 and is rejected for at least the same reasons.

3. As per claim 31,

Katz et al. ('624) discloses the system of claim 2

Wherein the selection interface is one of: an executable file that displays a graphical user interface; data received by the client computer that is rendered by a program running on the client computer to display a graphical user interface; a web page displayed by a browser application running on the client computer; a text file stored on the client computer that includes links or references to the digital content that allow the user to access the digital content by a communications means including one or more of an Internet browser, email, mail, telephone, fax, and file transfer protocols. (Column 9, lines 31- 37; figure 1)

Claim 44 is in parallel with claim 31 and is rejected for at least the same reasons.

4. As per claim 32,

Katz et al. ('624)discloses the system of claim 1 wherein the digital-content-accessing component is an executable file that, when executed on the client computer, accesses and receives the components of the digital content from remote computer systems. (Column 9, lines 31-37; figure 1)

Claim 45 is in parallel with claim 32 and is rejected for at least the same reasons.

5. As per claim 33,

Katz et al. ('624) discloses the system of claim 4 wherein the digital-content-accessing component is transmitted from a remote computer to the client computer through a communications medium. (Column 9, lines 31-37~ Column 9,

lines 51-54)

Claim 46 is in parallel with claim 33 and is rejected for at least the same reasons.

6. As per claim 34,

Katz et al. ('624) discloses the system of claim 4

Official Notice is taken that "the digital-content-accessing component is generated locally on the client computer from a component list" is common and well known in prior art in reference to distributed computing protocols. It would have been obvious to one having ordinary skill in the art at the time the invention was made to generate the digital-content-accessing component locally so that the program code could be compiled with machine specific optimizations

Claim 47 is in parallel with claim 34 and is rejected for at least the same reasons.

7. As per claim 35,

Katz et al. ('624) discloses the system of claim

wherein the digital-content-accessing component authenticates a received digital-content component by generating a message digest from the received digital-content component and comparing the generated message digest with a stored message digest. (Column 14, lines 29-

54)

8. As per claim 36,

Katz et al. ('624) discloses the system of claim 1

whereinat least one received digital-content component is encrypted. (Figure 2)

Claims 48 and 52 are in parallel with claim 36 and are rejected for at least the same reasons.

9. As per claim 37,

Katz et al. ('624) discloses the system of claim 1

Katz et al. ('624) does not explicitlydisclose the license component requests an electronic license certificate from the licensing broker; Coley et al. ('664) discloses the license component requests an electronic license certificate from the licensing broker (Figure 2). It would be obvious to one having ordinary skill in the art at the time the invention was made to combine the Katz et al. ('624) method with the Coley et al. ('664) method in order to prevent fraudulent transactions.

Claim 53 is in parallel with claim 37 and is rejected for at least the same reasons.

10. As per claim 38,

Katz et al. ('624) discloses the system of claim 1

Official Notice is taken that "the license component decrypts any encrypted, received digital-content components" is common and well known in prior art in reference to

distributed computing protocols. It would have been obvious to one having ordinary skill in the art at the time the invention was made to decrypt encrypted data in order to access information from the data.

Claim 54 is in parallel with claim 48 and is rejected for at least the same reasons.

11. As per claim 39,

Katz et al. ('624) discloses the system of claim 1

Official Notice is taken that "executes a purchase transaction to purchase a license for the digital content on behalf of the user" is common and well known in prior art in reference to distributed computing protocols. It would have been obvious to one having ordinary skill in the art at the time the invention was made to purchase a license in order to allow the creator of the content to make a profit from the distribution of the content

Claim 55 is in parallel with claim 39 and is rejected for at least the same reasons.

12. As per claim 40,

Katz et al. ('624) discloses the system of claim 1 wherein components of the digital content may include one or more of:

an encrypted executable file; an encrypted data file; a user interface library; a purchasing request library; a security information file; and an electronic license certificate. (Column 9, lines 31-37; figure 1)

Claims 49 and 56 are in parallel with claim 40 and are rejected for at least the same reasons.

As per claim 41,

Katz et al. ('624) discloses the system of claim 1 wherein components of the digital-content includes one or more of: digitally encoded executable code; digitally encoded source code; a digitally encoded video program; a digitally encoded audio program; digitally encoded music; a digitally encoded game; a digitally encoded multi-media program; a digitally encoded text document. (Column 9, lines 31-37; figure 1)

Claims 50 and 57 are in parallel with claim 41 and are rejected for at least the same reasons.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN M. WINTER whose telephone number is (571)272-6713. The examiner can normally be reached on M-F 8:30-6, 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin Hewitt can be reached on (571) 272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JMW

/Calvin L Hewitt II/
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